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AN ORDINANCE

AMENDING CHAPTER 6, BUILDINGS, ARTICLE V, MECHANICAL CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY MAKING THE SALE, TRANSFER OR OFFER TO TRANSFER OF SPECIFIC HEATING, VENTILATING AND AIR-CONDITIONING (HVAC) AND REFRIGERATION EQUIPMENT WITHOUT A LICENSE AND REGISTRATION A VIOLATION; PROVIDING FOR PENALTIES AND AN EFFECTIVE DATE.

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SECTION 1. Chapter 6 of the City Code of San Antonio, Texas, is amended as underlined (added) and deleting the language that is stricken (~~deleted~~) as follows:

Sec. 6-69. Specific heating, ventilating or air-conditioning (HVAC) and refrigeration equipment sales violation.

- a. No manufacturer authorized supplier, distributor or wholesaler shall sell, transfer, or offer to transfer the specific equipment described in Section 6-69c. to unlicensed and unregistered contractors/dealers. The sale, transfer, or offer to transfer equipment to unlicensed and unregistered contractors/dealers or other such persons shall constitute a Class C misdemeanor and be punishable under Section 1-5 of the City Code of San Antonio, Texas.
- b. The further sale or transfer of equipment as detailed in Section 6-69c. by registered and licensed contractors/dealers is prohibited and punishable as a Class C misdemeanor and punishable under Section 1-5 of the City Code of San Antonio, Texas.
- c. The following heating, ventilating or air-conditioning (HVAC) and refrigeration equipment as this term is commonly known in the industry is prohibited for sale within the City limits of San Antonio, Texas, unless to licensed and registered contractors/dealers:
 - 1. Gas furnaces
 - 2. Electrical air handlers
 - 3. Condensing units (including heat pumps)
 - 4. Packaged heating and/or cooling units (specifically excluding portable self-contained appliances less than 3 tons)
 - 5. Wall furnaces
 - 6. Cooling coil
- d. Exemptions

1. Those persons authorized to purchase the equipment listed above by Texas Occupations Code, Title 8, Chapter 1302, known as the Air Conditioning and Refrigeration Contractor License Law; and
2. Registered agents of a licensed and registered contractor/dealer.

Sec. 6-70. Records required.

- a. Every supplier or distributor of equipment listed above in Section 6-69 doing business as such in the City or who may hereafter engage in such business shall keep a written or electronic record in which they shall make accurate daily entries of any stated articles sold in the course of business, with the following information:
 1. They shall make an entry in the written or electronic record of the name, address, license number and registration number of the purchaser of the article, along with the purchaser's description or the distinctive number from such purchaser's identification card; and
 2. The date of sale together with a description or identification of the goods sold including serial numbers or other identifying numbers.
- b. The written or electronic record required to be kept by this section shall at all times be open to the inspection of the code official or a designated agent without need of judicial writ or other process. It shall be the duty of the persons required to keep the written or electronic record to exhibit them to any code official for inspection whenever requested or demanded.

Sec. 6-71. Agent Registration

- a. Individuals acting in lieu of registered and licensed contractors under Section 6-69 shall be required to register with the Planning and Development Services Department (PDSD) as agents of registered and licensed contractors.
- b. Registration shall be on a form as determined by the code official to include, but not be limited to, prospective agents' names, addresses and driver license numbers or other personal identification numbers, contractor identification and license number, and telephone number.
- c. An annual agent registration fee shall be charged in the amount of \$25.
- d. Updating and maintaining a list of registered agents shall be the responsibility of the PSDS and made available electronically through the PSDS web site.

- e. Registration shall be the responsibility of the prospective agent. Further, it is incumbent upon the agent, once registered, to notify the PDSD should the terms of the agency end. An agent must re-register with the PDSD should they leave a company's sponsorship or employment.
- f. Continued use of an expired or invalid registration card shall constitute a Class C misdemeanor under Section 6-69.
- g. It shall be contractor's responsibility to notify PDSD of any changes in agency within thirty (30) days of the change.

Secs. 6-72-6-80. Reserved.

[Secs. 6-69-6-80. Reserved.]

SECTION 2. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, or any appendix of this Ordinance, for any reason, be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision of this Ordinance be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 3. It is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Revised Civil Statutes Annotated as amended Title 5, Chapter 551, Government Code.

SECTION 4. No other provision of the City Code of San Antonio, Texas, is amended. All other provisions shall remain in effect.

SECTION 5. There is no financial impact realized through the passage of this Ordinance.

SECTION 6. The City Clerk is directed to publish notice of this Ordinance in accordance with Section 17 of the City Charter.

SECTION 7. The publishers of the City Code are authorized to amend the City Code to reflect the changes adopted herein.

SECTION 8. This Ordinance shall be effective on the **X** day of January, 2009.

PASSED AND APPROVED this **X day of January, 2009.**

M A Y O R

ATTEST:

City Clerk

**APPROVED AS TO FORM:
Office of the City Attorney**

City Attorney

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